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of Minorities
Forty-seventh session
Item 4 of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUBCOMMISSION HAS BEEN CONCERNED

Memorandum submitted by the International Labour Office

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GE.95-13071 (E)

I. RATIFICATION OF CONVENTIONS

1. Since the previous session of the Subcommission, there have been a large number of further ratifications of ILO Conventions on subjects relating to the concerns of the Subcommission. The following summarizes the ratifications of those among the ILO's 176 Conventions which are of special relevance for human rights.

Convention	Total ratifications	Since 30 June 1994
Forced Labour		
No. 29	137	El Salvador, San Marino
No. 105	115	Lithuania, San Marino
Discrimination		
No. 100	124	Armenia, Grenada, Lithuania
No. 111	120	Armenia, Lithuania
No. 156	24	Chile, Japan
Freedom of Association		
No. 87	113	Grenada, Lithuania, Namibia
No. 98	125	Lithuania
Migrant Workers		
No. 97	40	-
No. 143	17	-
Indigenous and Tribal Peoples		
No. 107	27	-
No. 169	8	Honduras
Minimum Age		
No. 138	46	-
Vocational Rehabilitation		
No. 159	55	Chile, Dominican Republic, Lithuania, Mali, Pakistan

II. APPLICATION OF CONVENTIONS

2. Within the framework of the regular programme for the supervision of ILO Conventions and Recommendations, the Committee of Experts on the Application of Conventions and Recommendations addressed a number of comments to ratifying States at its February-March 1995 session, which are contained in its report to the 82nd Session of the International Labour Conference. 1/ This report was in turn discussed by the Conference Committee on the

Application of Conventions and Recommendations, which invited a number of Governments to appear before it so as to give information on points raised by the Committee of Experts. 2/

3. The Committee of Experts also examined reports supplied under article 19, paragraphs 5 and 7, of the ILO Constitution, by member States on the Termination of Employment Convention, 1982 (No. 158) and Recommendation (No. 166). 3/ It drew up a General Survey on the basis of these reports, containing an analysis of the requirements of these instruments and of the measures taken by Governments to implement their provisions.

III. ADOPTION OF NEW STANDARDS

4. At its 82nd session (June 1995), the International Labour Conference adopted the Safety and Health in Mines Convention (No. 176) and Recommendation (No. 183), and a Protocol to the Labour Inspection Convention, 1947 (No. 81). The Conference also held the first discussion on future standards concerning homework.

IV. ACTION AGAINST APARTHEID IN SOUTH AFRICA

5. Following the successful completion of the multiracial elections in April 1994 and the installation of a democratic Government, the 81st Session (1994) of the International Labour Conference formally rescinded the ILO Declaration concerning Action against Apartheid and adopted a revised plan of action concerning the ILO's future work in South Africa.

V. SITUATION OF ARAB WORKERS OF THE OCCUPIED ARAB TERRITORIES

6. Since 1978, the ILO has been monitoring the situation of Palestinian workers and has all along maintained that it can best serve their interests and those of Palestinian employers through the provision of adequate and appropriate technical assistance. The complex and sensitive environment that affected the occupied Arab territories during the past 2½ decades prevented the realization of this objective. However, developments that took place in the last quarter of 1993 on the Palestinian/Israeli scene as well as the subsequent developments heralded the start of a new era of particular significance to the ILO's future role in the occupied Palestinian territories.

7. For the eighteenth consecutive year, the Director-General sent a mission to Israel and the occupied Arab territories with a view to analysing the situation of Arab workers of the occupied Arab territories. The mission was carried out from 24 April to 4 May 1995 and was preceded by a short preparatory mission to the Syrian Arab Republic in order to hold consultations with government authorities, and with employers' and workers' organizations. The report examined the evolution of the situation of the Arab workers living in these territories and the measures taken, if any, by the Israeli authorities following the recommendations made in previous reports. Taking into account the transition situation in which the problems were examined, and in the light of the recent political developments which have taken place, the report considered the various aspects of equality of opportunity and treatment for workers of the occupied Arab territories with regard to the economy and the labour market, including education and training and employment

opportunities, conditions of work, including the social insurance system, the trade union situation, the situation in the Golan, the establishment of Israeli settlements and their impact on living and working conditions, and more particularly the ILO programme of technical cooperation. The report on this subject appeared in an appendix to the Report of the Director-General submitted to the International Labour Conference at its 82nd Session, in June 1995, which considered it at a special sitting of the Conference.

8. The report concluded that, in spite of the efforts that the political leaders are making to advance the peace process, much remains to be done to ensure for Palestinian workers enhanced employment opportunities, economic security and conditions of work that are consistent with international principles and standards.

9. It has been considered that the institution-building and other work in which the ILO is engaged in the territories, in particular the promotion of workers' and employers' organizations, the development of a Palestinian Ministry of Labour and the promotion of tripartite dialogue between the Palestinian Authority and the social partners on social and economic issues, can make a vital contribution to the peace process by underpinning democratic ideals and practices and enhancing dialogue on issues that must be addressed if social justice and peace are to be achieved. In this connection, the report may provide a basis for the formulation of additional programmes.

10. However, it was recalled that the main and most urgent challenge must surely be to create sufficient new jobs to overcome the unemployment and underemployment problems in the territories, and it will be imperative for the ILO and other agencies to redouble their efforts to promote national and international action to improve the current acute employment situation facing the Palestinians, and to promote policies and measures that will enhance employment opportunities. However, before any progress can be made it will be necessary to eliminate the extremism and the acts of violence that have contributed to creating a climate of insecurity which has had a negative impact on the economic conditions of the Palestinians. The peace process will depend on the development of mutual respect between the Israeli and Palestinian authorities, and on the power of the Palestinian Authority to maintain control of the situation in the territories.

11. Responsibility for the success of the peace process, and in particular for creating economic conditions that will facilitate progress towards peace, lies with the Palestinian Authority, with Israel and with the international community as a whole. Therefore, in his report, the ILO's Director-General made an urgent appeal to the international community, and more particularly to the donor countries and institutions, at this crucial moment in Middle East history, to acknowledge and support ILO efforts and programmes that can effectively contribute to the economic development of the territories and the establishment of social justice and peace in the region.

VI. WOMEN WORKERS

12. The promotion of equality of opportunity and treatment for men and women in employment is one of the priority themes in the programme and budget for both 1994/95 and 1996/97. Relevant activities are carried out across the

overall ILO programme and through all means of action, including international labour standards, research, advisory services, meetings, technical cooperation activities and information dissemination.

13. The key areas of ILO action for the advancement of the status of women workers are:

(a) To assist member States in the adoption of comprehensive national strategies for the promotion of full equality for women in employment, as requested by the resolution on ILO action concerning women workers, adopted in 1991. This involves assistance for: the design of national policies and instruments for its implementation; the adoption, revision and enforcement of appropriate legislation, based on international labour standards; the implementation of practical measures, including positive action; and the promotion of tripartite dialogue and involvement concerning equality;

(b) To develop the institutional capacity of member States for the promotion of equality, by strengthening national machineries on equal opportunities, by contributing to gender sensitization in Governments and in employers' and workers' organizations, and by promoting national, regional and international linkages and exchanges of experiences for the development of support networks;

(c) To alleviate poverty and the situation of particularly vulnerable groups of women, by improving women's access to employment, entrepreneurship, training, organization and social protection;

(d) To promote the participation of women in decision-making at all levels, in particular in Governments, and in employers' and workers' organizations.

14. As a culmination of the 1992/93 Interdepartmental Project on Equality for Women in Employment (which was extensively reported on last year to the Subcommission), the ILO has been actively contributing to the Fourth World Conference on Women and its preparatory process. For more details, see attachments: GB.263/4/2 (June 1995), Second Supplementary Report of the Director-General to the Governing Body of the ILO: "The ILO and the Fourth World Conference on Women", as well as ILO Information Bulletin No. 4 (June 1995) on the same subject.*

VII. MIGRANT WORKERS

15. ILO's activities relating to international migration for employment aim at providing support to migrant-sending and migrant-receiving countries in order to help them deal with current priority concerns, cooperate in the recruitment and return of migrant workers and improve the protection of migrant workers and members of their families. The promotion of the ILO

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* Available for consultation in the files of the Secretariat.

standards concerning migrant workers is a prominent feature of all activities undertaken. The key concern of these standards is non-discrimination and equality of opportunity and treatment.

16. ILO activities have contributed significantly to the acceptance of the principle of equality of treatment for migrant workers and the elimination of discrimination against them. However, the situation of most migrant workers remains a matter of concern, particularly in the countries which have not yet ratified any of the relevant Conventions and where national legislation and practice are often far from being consistent with the principles of ILO. The development of migration for employment is becoming the focus of increased attention by the organization's constituents and by the Office. Apart from its ongoing activities related to international migration for employment, such as technical advisory services to emigration countries in the field of setting up coherent emigration and return policies, ILO has engaged in several activities aimed explicitly at promoting the protection of migrant workers and reducing discrimination against these workers.

17. An interregional project was launched to combat discrimination against migrant workers and ethnic minorities in the world of work. This project, which focuses on industrialized migrant-receiving countries, aims at tackling informal or de facto discrimination. Research findings have made it clear that this kind of discrimination is widespread and persistent. Moreover, discrimination in the labour market seriously hampers the migrants' integration into society at large. The objective of the project is to reduce discrimination by informing policy makers, employers, workers and trainers engaged in anti-discrimination training on how legislative measures and training activities can be rendered more effective, based on an international comparison of the efficacy of such measures and activities.

18. A major new work item has been launched covering migrant-sending and -receiving countries in Africa, the Americas, Asia and the Pacific, and Europe. The objective of this work is to promote the progressive application of international labour standards concerning migrant workers in these countries, taking into account their institutional and legislative constraints. Its immediate aims therefore are:

(a) To reinforce national capacity in the countries concerned to establish the institutional structures, competence and techniques required to manage the movement of incoming and returning migrant workers; and

(b) To provide support to the countries concerned with a view to achieving broader acceptance and application of international labour standards concerning migrant workers.

VIII. INDIGENOUS AND TRIBAL PEOPLES

19. ILO is responsible for the only two Conventions so far adopted on indigenous and tribal peoples: the Indigenous and Tribal Peoples Convention, 1969 (No. 169) and the Indigenous and Tribal Populations Convention, 1957 (No. 107). Convention No. 169 has now been ratified by eight countries, and

other ratifications are expected shortly. The analysis of its implementation by member States is being carried out as for all other ratified ILO Conventions, and more detailed information has been supplied to the Working Group on Indigenous Populations in this regard.

20. Even though the Convention has few ratifications so far, it is having a practical influence well beyond the number of ratifications. In November 1994, ILO called an inter-agency meeting to coordinate technical work among all the concerned organizations of the United Nations system on indigenous peoples, as it has done before. This series of meetings has resulted in better understanding of the different programmes, for which there is no other formal coordination mechanism, and is an important aspect of the interface between human rights instruments and development assistance. The ILO has also been lending assistance concerning indigenous and tribal peoples to the Russian Federation, Guatemala, the Philippines and other countries which have not yet ratified ILO Conventions on this subject, as well as to countries which have.

21. As a contribution to the International Decade of the World's Indigenous People, a booklet outlining ILO's policies, programmes and means of action for indigenous and tribal peoples has been prepared. ILO is also working with the Centre for Human Rights on other matters relating to the Decade. ILO also participated in the recent workshop on the possible establishment of a permanent forum for indigenous peoples in the United Nations system (Copenhagen, June 1995).

IX. COLLABORATION WITH OTHER INTERNATIONAL ORGANIZATIONS

22. As in the past, the arrangements whereby ILO collaborates with other international organizations on questions concerning the supervision of international instruments and matters of interest to more than one organization continued to function in relation to freedom of association, discrimination in employment and occupation, indigenous and tribal peoples, migrant workers, forced labour, child labour and other questions falling within ILO's mandate. ILO regularly takes an active part in the United Nations Commission on Human Rights and in the Subcommission on Prevention of Discrimination and Protection of Minorities, including the Subcommission's Working Groups on Indigenous Populations, and on Contemporary Forms of Slavery, as well as in other working groups such as the Working Group on the Right to Development. It plans to play a similar role as concerns the Working Group on Minorities. ILO also plays a prominent role in various treaty bodies established to supervise United Nations human rights instruments, i.e. the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child. ILO is cooperating with the United Nations in follow-up to the World Conference on Human Rights (Vienna, 1993) and the International Conference on Population and Development (Cairo, 1994), and hopes to be a catalyst for debate on the situation of women's employment at the forthcoming Fourth World Conference on Women. The 1995 World Summit for Social Development gave ILO a leading role in action concerning employment.

23. Collaboration continued between the ILO, its International Training Centre in Turin, Italy and the Centre for Human Rights through the joint working group for consultation and collaboration in relation to advisory services and technical cooperation and human rights questions.

Notes

1/ International Labour Conference, 82nd session, 1995: Report III (Part 4A): Report of the Committee of Experts on the Application of Conventions and Recommendations. Copies of the Committee's annual report are regularly furnished to the United Nations Centre for Human Rights and are available on request for members of the Subcommission.

2/ Report of the Committee on the Application of Standards, Provisional Record 24, International Labour Conference, 82nd Session, 1995.

3/ International Labour Conference, 82nd session, 1995: Report III (Part 4B), Protection against unjustified dismissal.

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REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Report submitted by the United Nations Educational, Scientific and Cultural Organization

[24 July 1995]

1. Under its programme for the promotion and dissemination of international human rights instruments, UNESCO has translated the Universal Declaration of Human Rights (1948) into three languages used in South Africa: Zulu, Khosa and Sotho. There can be no doubt that knowing the text in their own languages will help the peoples concerned to defend their rights and to combat any lingering racism in South Africa more effectively.

2. UNESCO took part in the Seminar on exclusion, equality before the law and non-discrimination organized by the Secretariat of the Council of Europe in collaboration with Intercentre of Messina, at Taormina-Mare (Italy), from 29 September to 1 October 1994. It may be of interest to summarize the wide-ranging debate, which centred on the following three topics: identification of the main phenomena of exclusion; efforts to combat exclusion phenomena and the law; the need to find genuine solutions to exclusion.

1. Identification of the main phenomena of exclusion

3. It became evident that these phenomena were widespread and diverse. The field of exclusion covered the unemployed, the elderly, the physically and mentally handicapped and drug addicts. The Seminar also considered the situation of women, ethnic minorities (particularly Gypsies) and foreigners. It was also noted that there were cases where people suffered from more than one handicap and where exclusion could be said to be reproduced from generation to generation, creating a real vicious circle. It was also pointed out that exclusion could have a spatial aspect, some districts and suburbs of towns being more particularly reserved for excluded groups.

2. Efforts to combat exclusion phenomena and the law

4. The general idea was that the law, although it could do much to combat exclusion, could not be enough on its own to eliminate this evil completely, particularly since the relationship between the law and exclusion situations could be a complex one.

5. Situations were identified in which excluded groups were without rights, such as housing, health and compensation for loss of resources. It was also noted that there were cases where the law was disregarded in dealings with certain groups of the population, such as tramps, the handicapped, etc.

6. Reference was also made to cases of bogus rights, e.g. to housing, the right of excluded groups to housing being recognized in a purely theoretical way, but care taken to avoid drawing any practical consequences.

3. Efforts to find genuine solutions to exclusion

7. It was considered that the first thing to be done in order to find solutions was to make a thorough analysis of the different phenomena covered by such terms as "exclusion", "new poor", "fourth world", or "persons of no fixed abode". Better knowledge of exclusion phenomena ought to enable Governments and the media to adopt policies better suited to the different situations. It was noted that it was extremely important to give proper training in social matters to those with responsibilities in this area, such as judges, policemen, etc.

8. Against this background, the participants agreed that society should go out to meet excluded groups, without waiting for them to ask, in providing for the specific needs of this or that category: the unemployed, the homeless, AIDS sufferers, Gypsies, foreigners, etc.

9. The proceedings of the Seminar on exclusion, equality before the law and non-discrimination were published by the Council of Europe in 1995.

10. UNESCO and the Centre for Studies on Turkey (Germany) organized, in cooperation with the National Commissions for UNESCO of Germany and Turkey, an international conference on "Migrants in the European Union: Between

integration and xenophobia" in Bonn, Germany, on 14 and 15 November 1994. The main emphasis of the Conference was the development of several approaches for the protection and integration of migrants in the countries of the European Union, particularly in view of the increasing violence against these groups.

11. UNESCO participated in the International Conference against Racism, Violence and Discrimination (8-11 June 1995, Schlaining Castle, Burgenland, Austria), organized by the Austrian Commission for UNESCO, the European University Centre for Peace Studies (EPU), the Institute for Human Biology, University of Vienna and the Federal Ministry for Science, Research and Art of Austria, in the framework of the International Year for Tolerance.

12. The Conference concentrated on five major items:

Theories of genetic foundation and determinants of human existence as race-biological consequences;

Current factors and causes of racism, violence and intolerance and how they can be curbed;

"New" racism and national socialism - perspectives and possible solutions from social science, natural science and cultural studies;

International and intra-societal problems of violence - causes and patterns;

For a culture of peace and democracy - conditions and options for the overcoming of racism, violence, and intolerance.

13. With its Amerindia programme launched in 1989, UNESCO has set up specific programmes for indigenous peoples, focusing mainly on the promotion of machinery for dialogue and consultation with a view to mutual understanding between indigenous and non-indigenous peoples (San Cristobal de las Casas, 1991; Ottawa, 1991; Oaxaca, 1993; Campeche, 1993).

14. UNESCO's pilot project on the Mayan world had centred on the preservation of the Mayan heritage and the cultural development of peoples of Mayan origin, special emphasis being placed on the development of local communities through cultural tourism.

15. Activities have also been undertaken with regard to the intangible cultural heritage of indigenous groups: grammars have been published for traditional languages that are under threat, such as Nahuatl, Guaraní and Quechua.

16. In 1993 the International Year for the World's Indigenous Pecples gave UNESCO a new opportunity to step up its activities in this field by creating a network of regular relations and consultations between indigenous and non-indigenous groups, Governments and non-governmental organizations. In its

activities, UNESCO took into account the changes that had occurred in international relations, which entail adjustments in societies at all levels, and the importance of dialogue and exchanges on an equal footing in multicultural societies.

17. The International Decade of the World's Indigenous People, which the General Assembly of the United Nations proclaimed in December 1993, gives pride of place to the need for consultations on a basis of equality between indigenous and non-indigenous peoples. With this in mind, a plan of action covering all the organization's fields of competence is being drawn up; it is concerned in particular with public information and awareness activities designed to improve knowledge of indigenous peoples' cultures, ways of life and aspirations.

18. To mark the launching of the Decade, the second Forum of the Indigenous Peace Initiative was held at UNESCO headquarters. This Forum, which was chaired by Mrs. Rogoberta Menchú Tum, the 1992 Nobel Prize winner, was attended by a hundred or so representatives of indigenous peoples of Latin America, Asia, Australia, Canada, Northern Europe and the United States, mainly from the fields of education and human rights.

19. UNESCO's activities in this field are designed to strengthen the endogenous capacities of indigenous peoples by giving active support to their initiatives. Special efforts will in particular be devoted to the preparation of bilingual and multicultural education programmes, to the protection and promotion of their physical and intangible heritage and to support for specialized training of craftsmen in management and marketing of their own production. Technical assistance will also be given to indigenous communities for the protection of their cultural heritage.

20. In addition, in the scientific field, particular attention will be given to the specific knowledge indigenous peoples have of their environment in the preservation of their ecological systems, through initiatives launched under UNESCO programmes such as MAB (Man and Biosphere) and programmes of the United Nations University.

21. UNESCO also played an active part in inter-agency consultations organized in order to improve collaboration on a common agenda for the Decade.

22. It may be noted, finally, that at the twenty-eighth session of the General Conference, at the end of 1995, the Director-General of UNESCO will submit his overall report on the implementation of the UNESCO Declaration on Race and Racial Prejudice (1978).

23. In connection with the establishment of an intercultural dialogue, UNESCO has also contributed to the safeguarding of heritage common to more than one culture and to the promotion of artistic expression by groups or persons belonging to different cultural communities.

24. Pilot projects have been implemented to promote cultural expression by nomadic ethnic groups. The general idea is to show that their cultures, by reason of their originality and the inventiveness that goes with their adaptability represent sources of enrichment for mankind. These pilot

projects are intended to reveal, among other things, the forces at work in these societies, and particularly the role played by women as pillars of the domestic economy, regulators of social equilibrium and managers of the collective identity. It is also planned to produce supporting material, in the form of information kits using photographs and audio-visual media.

25. In addition, UNESCO has made an intellectual contribution at the request of research institutions and multicultural or inter-cultural centres involved in day-to-day efforts to deal with marginalization and social exclusion due to cultural discrimination, which affects minorities in particular. Similarly, moral, technical and occasionally financial support has been given for the launching and coordination of projects on religious or cultural convergences within different multi-ethnic nations with a view to consolidating cultural pluralism at the national or subregional level.

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REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUBCOMMISSION HAS BEEN CONCERNED

Preliminary report of the Special Rapporteur on traditional practices affecting the health of women and children, Mrs. Halima Embarek Warzazi

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Introduction

1. At its forty-sixth session, on 26 August 1994, the Subcommission adopted resolution 1994/30 entitled "Traditional practices affecting the health of women and children", in which it decided to recommend that the Commission on Human Rights extend the mandate of the Special Rapporteur, Mrs. Halima Embarek Warzazi, for two more years, in order to enable her to undertake an in-depth study to assess, inter alia, the differences and the similarities between traditional practices affecting the health of women and children in many parts of the world, taking into consideration, among other relevant documents and information, the conclusions and recommendations of the two regional seminars and the effects of the implementation of the Plan of Action.

2. The Subcommission, in the same resolution, requested the Special Rapporteur to submit her preliminary report at the forty-seventh session and her final report at the forty-eighth session of the Subcommission.

3. At its fiftieth session, on 3 March 1995, the Commission on Human Rights, by its decision 1995/112, endorsed the recommendations of the Subcommission.

4. On 28 April 1995, the Secretary-General sent a note verbale to Governments transmitting a request for any relevant documents and information, in particular on the effects of the implementation of the Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children, to assist the Special Rapporteur in her work.

5. Such a request for information was also addressed to specialized agencies, United Nations bodies and organs, as well as intergovernmental and non-governmental organizations.

6. At the time of submission of the present report replies had been received from Armenia, the Czech Republic, Germany, Kiribati, Spain, Ukraine and Uruguay, as well as from the Economic and Social Commission for Asia and the Pacific, the Economic Commission for Latin America and the Caribbean, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization and the United Nations Population Fund.

7. Information was also received from the Inter-American Commission of Women of the Organization of American States and the International Federation of Red Cross and Red Crescent Societies, as well as the following non-governmental organizations: Arab Council for Childhood and Development, Asian Mass Communication Research and Information Centre, Commonwealth Medical Association, Inter-African Committee on Traditional Practices Affecting the Health of Women and Children, International Council of Nurses, International Federation of Human Rights, International Federation - Terre des Hommes and Victim Support.

8. In this preliminary report the Special Rapporteur intends to address, in accordance with Subcommission resolution 1994/30, the similarities and differences between traditional practices affecting the health of women and children in many parts of the world on the basis of the two regional seminars held on the subject in Africa and Asia, respectively.

9. The Centre for Human Rights, in cooperation with the Government of Burkina Faso, organized the first United Nations Regional Seminar on Traditional Practices Affecting the Health of Women and Children at Ouagadougou, from 29 April to 3 May 1991, the report of which is contained in document E/CN.4/Sub.2/1991/48. The second United Nations Regional Seminar on Traditional Practices was organized by the Centre for Human Rights, in cooperation with the Government of Sri Lanka, at Colombo, from 4 to 8 July 1994. The report of the seminar is contained in document E/CN.4/Sub.2/1994/10 and Corr.1.

10. On the basis of the deliberations of the two regional seminars, the Special Rapporteur submitted a Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children for the consideration of the Subcommission at its forty-sixth session, with a view to providing action-oriented and concrete proposals and positive changes to redress the situation at national and international levels.

11. The Special Rapporteur will consequently, in her final report, examine in depth the progress achieved and the difficulties encountered in the implementation of the Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children, as contained in document E/CN.4/Sub.2/1994/10/Add.1 and Corr.1. In this connection, a detailed analysis of the replies received will be made and final recommendations will be offered.

12. An analysis of differences and similarities in traditional practices affecting the health of women and children at global level will permit the Special Rapporteur to determine which types of effective intervention mechanism are needed in the different regions. This analysis can, therefore, be directly linked to the progress achieved and the difficulties found in implementing the Plan of Action.

I. TRADITIONAL PRACTICES

13. The peoples of the world are distinguishable not only by their nationality, religion, civilization and language, but also by their mentality. This mentality, forged by usages, customs and humanitarian and social spiritual values, represents the profound expression of the way of life of peoples as a whole, of a particular people among other peoples or of a group within a particular people.

14. As is well known, long before the concept of a nation and membership of that nation took firm root, human relations were centred on a group, a tribe, a clan, a family and a geographical area where traditions and customs, passed down from generation to generation, were respected and even jealously guarded.

15. One of the areas which has given rise to the greatest misunderstanding, contempt and intransigence, leading in most cases to incompatibilities and tensions in relations between peoples, groups and individuals, is that of culture, religion, customs and traditions.

16. Under the impulse of progress and modernity, with their full complement of mobilization, differentiation and secularization, traditions and practices have fallen into disuse in western societies, which are now characterized by industrialization, economic and social development and unprecedented changes in attitudes and behaviour leading to emancipation, more pronounced individualism, the break-up of the family, and the relaxation - not to say decline - of moral standards.

17. On the other hand, poverty and ignorance, the sway of religion and beliefs, respect for family structures and social constraints and - a factor which should not be overlooked - colonialism have, in the third-world countries, helped to keep alive traditions which in some cases go back thousands of years and to perpetuate practices in which traditional societies engage with conviction and fidelity because they have always formed part of their everyday lives.

18. It is true that since the most remote times it is men who have forged the practices which have characterized or continue to characterize the peoples of the world, but there seems to be no doubt that women, who have been the victims of many of these practices, are often the ones who have perpetuated them in traditional societies.

19. Those traditional practices which should now be abolished are those which jeopardize the health, well-being and dignity of women. There is no doubt that among traditional practices some must be maintained and encouraged. But today, many practices are particularly harmful for women and children because they endanger their physical and mental health and jeopardize their future and dignity. Some of these practices have been identified through the two above-mentioned seminars.

II. DIFFERENCES IN TRADITIONAL PRACTICES

A. Female genital mutilation

20. On the basis of the outcome of the two regional seminars, it appears that the major difference observed in connection with traditional practices in Africa and Asia is the expression or the type of the practice itself. For example, it is noted that the agenda of the African regional seminar provided for detailed discussion of female genital mutilation, son preference and traditional birth practices presenting risks to safe motherhood, whereas, at the Asian regional seminar, son preference and traditional practices related to marriage were priority concerns.

21. Female genital mutilation, a practice which involves the cutting away of all or part of the external female genital organs is prevalent mainly on the African continent. According to the World Health Organization, the number of sexually mutilated women and girls in Africa, and in some parts of Asia, had increased to between 85 and 115 million in 1994, and a further 2 million girls are estimated to be at risk of the practice each year. In addition, it should be mentioned that immigrant communities living in Europe, Australia, Canada and the United States of America also might practice some forms of female genital mutilation.

22. Although the practice is prevalent in 26 African countries, the types of female genital mutilation vary considerably across the continent. Infibulation, which is the most extreme form of female genital mutilation and which causes the most damage to girls' and women's health in the immediate and long term, is practised predominantly in Djibouti, Somalia, the Sudan, some parts of Egypt and Ethiopia, whereas excision, involving the removal of the clitoris and the labia minora, and circumcision, the removal of the clitoris, constitute approximately 85 per cent of the practice in West, Central and East Africa. The sexual mutilation of women is also found in some parts of Asia, such as Indonesia, Malaysia and Yemen. Contrary to the African practice, however, in Asia there exist communities where the ritual is performed in a purely symbolic manner by placing a knife on the clitoris of the woman without actually using it or by marking the clitoris lightly with a reed.

23. Differences may also be detected in the average age of the girls on whom the practice is carried out. In West Africa, were female genital mutilation is seen as a "rite of passage" from childhood to womanhood, the age at which the practice is performed tends to be around 14 or 15, when the young woman becomes fertile. In this connection, it is also common for elaborate rituals to be performed during the act. In East Africa, female genital mutilation is traditionally practised in order to control sexual desire and to preserve virginity, and frequently girls have to undergo the procedure at the age of 7 or 8. According to the World Health Organization, it appears that the average age is generally falling, indicating that female genital mutilation is having less and less to do with initiation into adulthood. In addition, it is stipulated that the differences in age according to the area are also linked to whether legislation prohibiting the practice is in force.

B. Son preference

24. In contrast to female genital mutilation, which was only considered at the African regional seminar, the practice of son preference was treated in detail at both regional meetings. The Working Group on Traditional Practices affecting the Health of Women and Children, which was established in 1985 and which submitted its report to the Commission on Human Rights at its forty-second session in 1986, defined son preference as the preference of parents for male children, which often manifested itself in neglect, deprivation or discriminatory treatment of girls to the detriment of their physical and mental health (E/CN.4/1986/42, para. 143). Son preference was generally recognized to exist in most countries in Africa and Asia - perhaps to a more marked extent in the latter - as a transcultural phenomenon which varied in intensity and expression from one country to another.

25. South Asia (Bangladesh, India, Nepal and Pakistan), as well as Western Asia (Jordan, Syrian Arab Republic) and some parts of Africa (Algeria, Cameroon, Egypt, Liberia, Libyan Arab Jamahiriya, Senegal, Tunisia) were identified by the Working Group as most affected (para. 151). Son preference is also prevalent in Morocco but the Government has for the past two years given great importance to "the little girl" through policies and activities aimed at combating this tradition.

26. At both seminars, the historical roots of the phenomenon were attributed to the existence of patriarchal systems. Furthermore, participants at both seminars felt that economic considerations, such as the traditional role of men in agriculture and as property owners, underlay this type of discrimination against women. Whereas, in Africa it was recognized that religion or erroneous interpretation of the religion might also be one of the causes of the practice (because, for example, women were not allowed to perform certain religious functions and ceremonies), it is interesting to note that in Asia it was clearly stated that the practice was not based on religion. Buddhism, promoting egalitarian societies resulting in non-discriminatory social policies providing for free food, education and health care, was cited as an example in that regard.

27. While the phenomenon of son preference was a traditional practice affecting the health of women and girl children throughout their entire life cycle, it was found that practices such as female foeticide or infanticide were more prevalent in Asian than in African societies, where son preference more frequently expressed itself in the form of nutritional and educational differences between the sexes. In addition, it was found that in both Asian and African countries women's access to employment and economic opportunities was severely hampered due to discrimination.

C. Traditional marriage and related practices

28. The issue of traditional marriage and related practices was considered much more extensively at the Asian regional seminar. It was stressed that in the Asian region both marriage and motherhood were mandatory. Women were generally required to marry at a young age and were frequently subjected to virginity tests and virginity control. Early marriage and resulting early maternity adversely affected the health, nutrition, education and employment opportunities of women and lowered their life expectancy. As a result, maternal and child mortality rates were extremely high in the region, with South Asia recording the highest maternal mortality rate of 650 maternal deaths per 100,000 births. At the seminar, it was stated that marriage and procreation were affected by religious, social and economic factors such as unequal access to education and training; however, economic security for women was cited as one of the main reasons why the practices were condoned.

29. In the African region, it was felt that son preference, widespread in this continent, also frequently led to early marriages. Although in Africa harmful traditional marriage practices were not as prevalent as in Asia, in some countries, notably in East Africa and in Nigeria, the number of girls married at an early age was increasing, as young virgins were less likely to be infected with HIV/AIDS and, therefore, were seen as fit and healthy brides.

30. Practices related to early marriage and pregnancy which were detrimental to women's well-being were acknowledged to exist, in particular in South Asia, for example in the form of dowry payments to compensate for the low status of the woman. Such practices might take particularly violent forms, including torture and abuse perpetrated by the family, sometimes resulting in so-called dowry deaths and bride burnings. It should also be mentioned that the younger the bride the lower the dowry, another encouragement to early marriages.

31. Another difference in marriage-related practices was the fact that in Asia, young brides were frequently under the control of their mother-in-law resulting in confrontations, maltreatment and oppression by the mother-in-law and the wider family, whereas in Africa the young bride was more likely to be subjected to ill-treatment by her husband and the immediate family. The manifestation of the practice might differ, but the consequences for the woman remained the same.

D. Traditional birth practices

32. At the African regional seminar, the issue of traditional birth practices presenting risks to safe motherhood was identified as one which prevailed across the whole region. This was attributed not only to cultural values but also to the difficulty in obtaining adequate health care, education and information with regard to childbirth. Delivery practices harmful to the health of women were frequently linked to births assisted by traditional midwives and to the acute lack of hygienic and safe conditions. In addition, in some countries in Africa, such as Ghana, nutritional taboos during pregnancy weakened women, leading to complications at delivery.

33. In Asia, childbirth assisted by traditional untrained birth attendants was also recognized as being widely practised. However, certain traditional practices related to delivery were identified as beneficial to the mother and child. Breast-feeding and "rooming in" were cited as positive examples.

III. SIMILARITIES IN TRADITIONAL PRACTICES

34. From the above accounts, it is clear that whatever the practice may be, and wherever it exists, the origins lie in the historically unequal economic and social relationships between men and women, resulting in a perceived inferior status of the woman. It is, therefore, not surprising that the consequences of these age-old practices have the same devastating effects on girls and women throughout the world, regardless of the expression the traditional practice may take and whether it occurs in Asia, Africa or elsewhere.

A. Causes

35. Participants at both regional seminars agreed on the global prevalence of certain historical, cultural, social and economic factors which perpetuated traditional practices harmful to the health of women and children. The unequal power relations between men and women, promoting male supremacy and the subordination and vulnerability of women, were firmly integrated into the traditional value systems of societies where such practices continued to exist.

36. In connection with female genital mutilation, the reproductive role of women in traditional societies was frequently mentioned. It was felt that the lower status of women was perpetuated by a desire to control female sexuality, for example by removing women's sensitive sexual organs so as to quell their sexual desire, to preserve their virginity or to ensure purity of lineage. In

addition, pressure by the community towards conformity and social acceptance often drove young girls and their mothers to subject themselves to such practices, which allowed them to be accepted by the community as full members.

37. Similar reasons were put forward regarding the practice of early marriage, even child marriage. Early marriage was perceived as a guarantee for a long cycle of fertility, firmly entrenching women in their most important role as mothers. In addition, the economic benefits of a girl whose virginity was guaranteed, whether through genital mutilation or early marriage, were recognized as causes for these practices, since a virgin girl was considered a financial asset in terms of dowry.

38. In the same vein, it was stated that son preference and the low status accorded to girls and women were two sides of the same coin, as the preference for one sex over another had led to the conscious or unconscious neglect of daughters, resulting in their low and, often, negative self-esteem and loss of dignity. As mentioned earlier, it was emphasized at both regional meetings that son preference was stronger in countries where patriarchy was firmly rooted. It has been noted, however, that in certain regions where women are needed for agricultural purposes son preference is not prevalent.

39. Furthermore, in both the African and Asian regions, it was argued that the practice of son preference had emerged with the shift from subsistence agriculture, primarily controlled by women, to settled agriculture, primarily controlled by men. This in turn reinforced the role of men as providers and caretakers, as work force and as property owners, so that the only guarantee of security for a woman would be through a man: her father, her brother, and eventually her husband and her sons. At the Asian regional meeting, the prevalence of son preference was also closely linked to situations of scarcity and poverty where limited resources had to be invested optimally, to the detriment of the girl child.

40. The question of religion as a cause of harmful traditional practices is a very sensitive one. It is, however, possible that in cases where certain traditional practices are perceived to be required by religion, the misinterpretation and misuse of religion may create social mechanisms to control the status of women, resulting in the denial of their identity and integrity. In a vicious circle, the perceived low status of women within their communities has excluded them from, for example, influencing religious interpretations which may reinforce their inferiority and vulnerability.

41. As a result of long-standing perceptions of traditional roles for men and women, many of the practices described above which severely affect the health of women and children have evolved to become accepted norms of social behaviour. In many cases, in Africa and Asia alike, this socialization process has reached such an extent that women themselves emerge as guardians of the practices because no alternatives are available.

42. At both regional seminars it was repeatedly emphasized that one of the major causes for the continuing existence of such traditional practices was the lack of information and access to education. A direct correlation in this regard has been established by WHO, which noted that incidences of female genital mutilation have decreased in urban areas, among communities with

higher literacy rates. Consequently, if women indeed appear to be guardians of the practices, it is because they cannot act on the basis of an informed choice but are surrounded by myths, misperceptions and discriminatory practices and traditions created by men.

B. Consequences

43. Similarities may be detected at a global level, not only in the deep-rooted causes perpetuating traditional practices but also in their harmful consequences. It should also be noted that these consequences do not only, as the title suggests, affect the health of women and children but their social and economic status and living conditions as well, so that the effective enjoyment of their human rights is seriously impaired.

44. The physiological and psychological health of girls and women subjected to harmful traditional practices are commonly impaired in Africa as well as in Asia, whether such practices take the most extreme form of genital mutilation or the more disguised form of neglect and discrimination as a result of son preference.

45. At the African regional seminar, the health consequences of female genital mutilation were discussed in detail. It was said that physical damage often due to the use of unhygienic methods and instruments, included vaginal haemorrhage and numerous genito-urinary and obstetric complications, tetanus, blood poisoning, as well as, increasingly, HIV/AIDS infection. In addition, female genital mutilation usually rendered sexual intercourse very painful and difficult for women, often resulting in frigidity. Furthermore, the shock triggered by the procedures, often performed without any anaesthesia, had long-lasting psychological effects on the girls. Similar severe consequences could be observed in regions where early marriage and early pregnancies existed. As already mentioned, in those cases life expectancy lessened considerably and maternal and child mortality rates were extremely high, South Asia being a point in case.

46. Closely linked was the societal pressure for a son; young women and girls were pushed into unwanted and recurrent pregnancies in the hope of a baby boy. Additionally, as child brides themselves were frequently victims of the effects of son preference, they often suffered from poor nutrition and might not have finished growing themselves, leading to nutritional deficiencies in both mother and baby. The delivery practices mentioned above could also have similar consequences for the well-being of girls and women. Certain nutritional taboos to which pregnant women were subjected weakened them so that complications arose during childbirth.

47. The discriminatory practices carried out as a result of son preference were also highlighted at both seminars and appeared to be equally prevalent in Africa and in Asia. Along with female foeticide, often illegal and sometimes self-induced and female infanticide, girl children were often deprived of food to the benefit of their brothers; feeding a daughter was often perceived as "watering the neighbour's garden", i.e. simply not a beneficial investment. In Asia, sex discrimination in feeding had been noted to lead to a higher incidence of malnourishment and mortality rates among female children. At the

African seminar it was noted that discriminatory practices favouring the male child also included the denial of health care to girl children, particularly in Asia and in North Africa, thereby increasing their mortality rate.

48. Similarities in negative affects of traditional practices on women are not only related to health, but also to education. Families living on limited resources tend to give priority to the education of the males. In fact, at the Asian seminar it was stated that gender discrimination and its negative effects had generally declined in countries whose Governments had provided free education and free health services to both women and men. It should be mentioned in this context that educational institutions may sometimes reinforce the stereotyping of women in their traditional roles. In general, however, it was stated that in the Asian region, the advancement of the status of the women and the welfare of the child in the family and society were symbiotically linked with socio-economic development of the nation.

49. The most common factor in all the various types of traditional practice is the violent form they take. It is increasingly argued, for example in the report of the Special Rapporteur on violence against women (E/CN.4/1986/42), that violence against women plays a major role in human history, manifesting itself in various forms and social practices. Women are so routinely subjected to violence in the family and in the community that this long-standing reality is accepted as a part of tradition and culture.

50. From the above accounts of the negative consequences that certain traditional practices have on women and children, it may be argued that traditional practices such as son preference, female genital mutilation, early childhood marriage and related practices constitute manifestations of violence against women. In this connection, the Declaration on the Elimination of Violence against Women, adopted by the General Assembly in its resolution 48/104, expressly states in its article 2:

> "Violence against women shall be understood to encompass, but not be limited to, the following:
>
> (a) Physical, sexual and psychological violence occurring in the family, including ... dowry-related violence ... female genital mutilation and other traditional practices harmful to women ..."

51. At the Asian regional seminar, it was further argued that the subordinated status of women was closely linked to the perpetuation of such practices, and even encouraged violent attitudes. Violence against women was one of the crucial mechanisms by which women were forced into a subordinate position to men.

52. It was also recognized that in both the Asian and African regions legislative measures aiming at the elimination of harmful traditional practices were lacking. Where such legislative provisions existed, their implementation was less than effective. It was also noted that the issue of harmful traditional practices had only been brought to the forefront through the activities of non-governmental organizations such as the Inter-African Committee on Traditional Practices affecting the Health of Women and Children which had national affiliates in many African countries. The community of

non-governmental organizations in Africa appeared to be much more organized with regard to the elimination of traditional practices than its Asian counterpart. It seemed that the "critical mass" at which Governments were sensitized to the issue had not yet been reached.

IV. PRELIMINARY CONCLUSIONS

53. The objective of the two regional seminars in Africa and in Asia was to assess the human rights implications of certain traditional practices affecting the health of women and children. During the discussions it was observed that despite the seriousness of the problems involved and the numerous resolutions and recommendations adopted at the international, regional and national levels, the question of traditional practices affecting the health of women and children had not received the attention it deserved from most of the States concerned. Furthermore, in the view of the participants in the seminars, such practices persisted because of a lack of political will on the part of many States and the failure to inform and educate both women and men.

54. Judging from the differences and similarities in traditional practices that were identified on the basis of the discussions at the regional seminars, it can be concluded that despite the different manifestations of harmful traditional practices depending on the region and the country, the root causes and the negative consequences for the women and girls remain essentially the same. It is for these reasons that the Special Rapporteur is convinced that the Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children, as elaborated on the basis of the two seminars and as adopted by the Subcommission at its forty-sixth session, provides a global framework for action at the national, regional and international levels.

55. The Special Rapporteur, therefore, calls upon all States, United Nations bodies and organs, relevant specialized agencies, as well as non-governmental organizations and grass-roots movements to implement the Plan of Action and to report to her on the progress achieved and the obstacles encountered in doing so. In her final report the Special Rapporteur intends to analyse closely the replies received in this connection, so as to make recommendations on improved action for the elimination and eradication of harmful traditional practices affecting women and children.